THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12040 of 2005

23.8.2005

Between:

Sri Ganapathi Agency, rep. By its Proprietrix, Smt.P.Radha Mani

… Petitioner

AND

1. The Joint Collector, at Visakhapatnam

and another

… Respondents

ORDER:

The petitioner is a dealer of Indian Oil Corporation engaged in the business of selling motor spirit, high speed diesel oil and lubricants. The petitioner's business premises was inspected by the second respondent on 05.3.2005 when samples of petrol and diesel products were obtained. They were sent to Forensic Science Laboratory, Hyderabad on 15.3.2005. A report was obtained in May 2005, which showed that Kinematic Viscosity of HSD sample from the petitioner's petroleum outlet was reading at 1.9220. Be that as it is, after receiving the report, the second respondent seized the petroleum products from the petitioner's outlet on 03.6.2005, which is assailed as arbitrary in this writ petition.

Though the interlocutory applications are listed, the matter was heard finally and is being disposed of by this order.

The learned Counsel for the petitioner relies on Clause 2(a) and the relevant table under Schedule I of Motor Spirit and High Speed diesel (Regulation of Supply and Distribution and Prevention of Malpractices), Order 1998 (Control Order, for brevity) in support of the contention that the variation of Kinematic Viscosity standard cannot be termed as culpable deviation warranting any action. However, the opposite parties rely on report of A.P.F.S.L., Hyderabad, according to which, Kinematic Viscosity at 40^{o} C of Diesel oil as per BIS specification is I.S:1460:2000 is 2.0 to 5.0. There is some inconsistency in the Central Government Control Order referred to hereinabove and the BIS normative standards applied by the FSL. This matter is decided elsewhere in the first instance.

It is brought to the notice of this Court that the Joint Collector has already initiated proceedings Section 6-A of the Essential Commodities Act, 1955 (the Act, for brevity) and suspended the license of the petitioner. The petitioner filed an appeal before the Commissioner for Civil Supplies and got suspension order stayed.

Further, the proceedings are still pending. Therefore, having regard to the fact that the seized petroleum products were already released to the petitioner pursuant to the interim orders of this Court, this writ petition is disposed of directing the first respondent to complete the proceedings under Section 6-A of the Act within a period of six weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is disposed of. There shall be no order as to costs.

_____

(**V.V.S. RAO,J**)

August 23, 2005

YS